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EPEX SPOT's key recommendations for improving the Network Code on Demand Response proposal

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A proposal for the new Network Code on Demand Response was publicly consulted until 10 November 2023. As European Power Exchange and developer of local flexibility market solutions, EPEX SPOT is sharing its assessment on critical aspects of the proposed text. Four key topics arise where the Network Code proposal needs to be considerably improved during the further drafting process.

1. Promote more strongly and clearly the market-based flexibility procurement of congestion management and voltage control services by system operators. Be more ambitious by making clear improvements for market-based flexibility procurement compared to the status quo and existing regulation.

Market-based solutions, such as local flexibility markets, are not an end in itself, but provide a pricing mechanism that is superior to any regulated pricing, especially for complex usage profiles as demand response. A market represents the economically most efficient way to bring together supply and demand. Local flexibility markets create the right economic space for the development of existing and new flexibility. Market-based flexibility procurement for congestion management by TSOs and DSOs is the European target model according to the Clean Energy Provisions (Art. 13 Electricity Regulation and Art. 32 Electricity Directive).

The NC DR is supposed to clearly foster the market-based flexibility procurement, but the present NC DR proposal fails to a large extent to do so. More ambitious provisions are needed. Otherwise, it is questionable how Network Code will bring progress compared to the already existing Clean Energy Package provisions which are still not implemented everywhere in the EU even four years after its entry into force in 2019.

In our consultation response, we make concrete improvement proposals, e.g., in our amendment proposals for Art. 47 and 48 NC DR. For example, the NC DR shall insert an additional assessment or stricter criteria for NOT applying market-based redispatch. Furthermore, when preparing the national terms and conditions, DSOs and TSOs shall also assess and make public cost-savings that market-based procurement will bring compared to non-market based procurement, such as reduced redispatch costs, reduced or deferred grid investment costs, reduced grid operation costs. This will help foster market-based solutions instead of non-market-based solutions. In addition, system operators need to have incentives to engage in market-based flexibility procurement processes, complementary to an appropriate grid expansion. Therefore, the costs for market-based procurement of congestion management and voltage control need to be recognized and should be recoverable. This needs to be clearly stated in the Network Code, otherwise it will not bring improvement compared to the status quo.

2. Facilitate value stacking for market participants through product compatibility, process improvements and technology. Avoid combined markets with forwarding of bids between spot markets and local flexibility markets.

The option of combined markets, as described amongst others in Art. 48, 53, 57 and 60 NC DR, is not the right way forward to develop market-based flexibility procurement for technical and practical reasons, but also for market design reasons.

Combining the European-wide coupled wholesale markets (SDAC, SIDC) with local flexibility markets, e.g., through locational tagged bids, is unrealistic and highly complex. SIDC is not compatible with it: you have different products, different ways of trading, etc. It raises many questions with regard to the European-wide harmonized Single Intraday Coupling (SIDC) algorithm. Such additional constraints would probably not be implementable in the matching engine. For SDAC, such a change of SDAC products would have a major impact on Euphemia calculation time, will delay other market coupling projects. In addition, intraday and local flexibility are different markets for different uses, with different products, different risks, hence different prices. They should not be mixed up or it would create price signal distortions and undermine overall market transparency.

In particular, mixing local flexibility with the intraday market makes little sense from a FSP risk perspective and from a price signal perspective, and would dramatically reduce transparency and readability of the intraday market. More straight-forward alternatives to combined markets exist, such as the options of parallel or sequential markets. There is no need to opt for the combined option. What should be aimed for is product compatibility and process improvement to ensure value stacking for FSPs across all wholesale and balancing and flexibility electricity markets. Certainly, it should be facilitated for FSPs to offer their flexibility and arbitrate between these different value pools, but this could be facilitated through technology, and does not require markets to be mixed.

3. Avoid lengthy implementation processes

The implementation processes need to be significantly accelerated at various points. The new rules should be implemented without unnecessary delays in order to utilise and further develop the urgently needed load-side flexibility as quickly as possible in the interests of a successful energy transition. For example, it is unclear why the step of development of a national process to develop national terms and conditions by SOs is really needed. It will take at least 4 months. Instead, SOs shall directly start developing the common proposal for the national terms and conditions according to Art. 6 NC DR.

Furthermore, instead of creating new rules that could be redundant or contradictory as Art. 53 (4) (c) suggests, existing rules on capacity withholding and market abuse shall be also applicable for local flexibility markets. In addition, the list of attributes shall be directly included in the Network Code instead of only referring to a future process taking additional 6 months to develop the list of attributes (Art. 58). This will again save time.

4. Do not create overcomplex nomination processes for local markets operators. Instead, define clear functional requirements which will ensure that these markets are operated compliant to the NC DR.

The idea is that System operators shall procure market-based flexibility services. They can do it using the services of local market operators or through tenders. In both cases the regulation should be the same. System operators have the duty to procure the flexibility market-based and they shall be left free to operationally do so without recurring to additional nomination from the regulators.

Existing rules from public procurement, and fair treatment of grid users should apply. Setting up additional rules for nomination of local market operators would create unnecessary administrative layer. Moreover, the Framework Guideline does not stipulate a nomination process for local market operators.

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